

apartment was being renovated and one-half the tax consequences from the sale of her apartment.

2. This Motion concerns the Defendants' counter-claim that requests the Court to impose a constructive or resulting trust on the new apartment for the benefit of Mr. Bogorad's estate in the event Ms. Mullinix prevails on her breach of contract or estoppel claims. There are no issues of material fact that remain in dispute relating to the elements necessary to impose a constructive or resulting trust.

3. This counter-claim cannot survive summary judgment because it is undisputed that (1) Mr. Bogorad did not provide *any* funds toward the purchase price of the property; (2) there was never a promise, agreement or intent that Mr. Bogorad would enjoy an ownership interest in the property; and (3) at no time was there a transfer from Mr. Bogorad to Ms. Mullinix in reliance on a promise that Mr. Bogorad would have an interest in the property. The undisputed facts, as a matter of law, prohibit the imposition of any trust.

4. The Plaintiff respectfully requests the Court grant this Motion for Partial Summary Judgment relating to the Defendants' counter-claim for the reasons set forth in the accompanying Memorandum In Support Of Plaintiff's Motion For Partial Summary Judgment.

Respectfully submitted,

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By her attorneys,

/s/ Sara E. Solfanelli

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Date: June 5, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 5, 2006.

/s/ Sara E. Solfanelli

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